

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PETER RODRIGUEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, E.S.U. CAPTAIN MOISE  
#1451, E.S.U. OFFICER GALUZEVSKIY #8957, E.S.U.  
OFFICER TEMIR WILLIAMS #11475, CORRECTION  
OFFICER FERRARO #1805, CAPTAIN GIBSON,

Defendants.  
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**DECLARATION OF  
KATHERINE J. WEALL IN  
SUPPORT OF  
DEFENDANT’S MOTION  
FOR SUMMARY  
JUDGMENT PURSUANT TO  
FED. R. CIV. P. 56**

20 Civ. 9840 (GHW)

**KATHERINE J. WEALL**, an attorney duly admitted to practice in the State of New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to defend the City of New York, Captain Moise, Officer Galuzevskiy, Officer Williams, Officer Ferraro, and Captain Gibson in this matter. As such, I am familiar with the facts and circumstances of this action. I make this declaration to place the relevant documents on the record in support of Defendant’s Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Annexed hereto as “Exhibit A” is a copy of the Second Amended Complaint in this action, filed on February 9, 2021.

3. Annexed hereto as “Exhibit B” is a copy of the Civil Docket Sheet in this action.

4. Attached hereto as “Exhibit C” is a copy of the relevant pages of the deposition transcript of Peter Rodriguez, wherein plaintiff testifies that there was a fire that started in his cell when he was alone inside the cell.

5. Attached hereto as “Exhibit D” is a copy of an Investigation Report into the incident underlying the SAC, dated September 3, 2020, bearing Bates number DEF 000425, which shows which officers responded on the date of the August 31, 2020 incident and generally what those officers did during the incident.

6. Attached hereto as “Exhibit E” is a copy of the relevant pages of Facility Referral No. U4068/2020, bearing Bates number DEF 007748, showing that there was a fire in plaintiff’s cell.

7. Attached hereto as “Exhibit F” is a copy of the Closing Report for Use of Force Investigation U4068-20, showing which officers responded to plaintiff’s cell.

8. Attached hereto as “Exhibit G” is a copy of the relevant Injury to Inmate Report for this incident, bearing Bates number DEF 000428, showing plaintiff’s lack of injuries on August 31, 2020.

9. Attached hereto as “Exhibit H” is a copy of relevant pages of plaintiff’s medical records, bearing Bates numbers DEF 3426-3564; DEF 003838-3841; and DEF 003847-3849, showing a) plaintiff’s lack of injuries on August 31, 2020 and b) that plaintiff never complained about mistreatment by any correction officer during medical visits from December 17, 2020 through December 21, 2020.

10. Attached hereto as “Exhibit I” is a copy of the initial Complaint in this action, ECF No. 2, filed November 20, 2020, which shows that plaintiff did not name defendant Galuzevskiy in it.

11. Attached hereto as “Exhibit J” is a copy of the First Amended Complaint in this action, ECF No. 14, filed December 21, 2020, which shows that no complaint had been filed naming defendant Galuzevskiy as of December 18, 2020.

12. Attached hereto as “Exhibit K” is a copy of Directive 3376R-A on Grievance Procedures.

13. Attached hereto as “Exhibit L” is a copy of Complaints Made to 311 by Peter Rodriguez, bearing Bates numbers DEF 007875 through DEF 008000, showing that plaintiff understood how the grievance process worked and that he did not take advantage of the grievance process following any of the incidents in the SAC.

Dated: New York, New York  
December 29, 2022

**HON. SYLVIA O. HINDS-RADIX**  
Corporation Counsel of the City of New York  
*Attorney for Defendants Moise, Galuzevskiy,*  
*Williams, Ferraro, and Gibson*  
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(212) 356-5055

By: \_\_\_\_\_  
KATHERINE J. WEALL  
*Senior Counsel*

To: VIA U.S. Mail  
Peter Rodriguez  
*Plaintiff Pro Se*  
Five Points Correctional Facility  
6600 State Route 96  
Caller Box 119  
Romulus, NY 14541

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SUPPORT OF DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT PURSUANT TO FED. R. CIV. P.  
56**

**HON. SYLVIA O. HINDS-RADIX**

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Galuzevskiy, Williams, Ferraro and Gibson*  
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New York, New York 10007

Of Counsel: Katherine J. Weall  
Tel: (212) 356-5055

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2022*

*..... Esq.*

*Attorney for.....*

